

THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

MARK AARON RICH,

Debtor.

CASE NO.: 22-52870-jwc

CHAPTER 7

JUDGE JEFFERY W. CAVENDER

VSP Atlanta LLC,
Movant,

vs.

MARK AARON RICH,
Debtor,

S. GREGORY HAYS,
Trustee,
Respondents.

CONTESTED MATTER

MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW, VSP Atlanta LLC, (“Movant”) and hereby moves this Court for relief from the automatic stay pursuant to 11 U.S.C. § 362(d), with respect to certain real property. In support thereof, Movant shows as follows:

Mark Aaron Rich (“Debtor”) having filed a voluntary petition pursuant to 11 U.S.C. § 701, *et seq.*, is subject to the jurisdiction of this Court.

2.

This Court has jurisdiction over this matter pursuant to 11 U.S.C. § 362.

3.

Movant is the landlord of certain real property located at 1030 Millridge Ln SE, Marietta, GA 30067 (“Property”), currently leased to Debtor pursuant to a rent under a residential lease agreement entered into on or about September 10, 2021 (“Lease”), for a term beginning on September 17, 2021 and ending on September 16, 2022, with a rental rate of \$3,450.00 per month (“Rent”). In the event Rent is not received by the fifth (5th) day of each month, a late fee of \$345.00 (“Late Fee”) is incurred.

4.

The Property is listed as Debtor’s address in the Petition [Doc. 1, p. 2].

5.

Movant seeks relief in order to continue with dispossessory proceedings (“Dispossessory”), previously filed in Cobb County, Georgia, to dispossess Debtor along with any other occupants from the Property for failure to pay rent under the Lease. During the dispossessory hearing on April 14, 2022, both the court and Movant were made aware of Debtor’s voluntary petition. The case was immediately stayed.

6.

Debtor defaulted under the terms of the Lease by failing to pay Rent, Late Fees, and other applicable charges under the Lease as required for February 2022 through the date of the instant motion. As of the date of the instant motion, Debtor owes a total of \$11,685.00. Debtor continues to accrue arrearages of Rent, Late Fees, and other applicable charges.

7.

Movant is unable to continue with the Dispossessory and exercise its state law remedies

due to the automatic stay and has incurred costly attorney fees as a result of Debtor's actions and filings.

8.

Because Debtor has demonstrated a continuing default and a clear inability to make payments required under the Lease and has not submitted any documentation to the contrary under the provisions of the bankruptcy code, Movant is not adequately protected. For the foregoing reasons, Movant asserts that cause exists sufficient to waive the requirements of Bankruptcy Rule 4001(a)(3).

10.

Because there is no equitable or legal interest in the Property which could benefit the Estate and such property is not part of the Estate, the Trustee's interest should be deemed abandoned, the Lease rejected, and the stay should be lifted with regard to Movant to allow it to continue with the Dispossession to dispossess Debtor along with Debtor's personal property and, to the extent permitted by law, obtain a monetary judgment against Debtor for unpaid post-petition Rent while Debtor remains in possession of the Property.

11.

Because the Lease provides that Debtor is responsible for Movant's attorney's fees in pursuing legal action, Movant is entitled to reasonable attorney's fees from Debtor.

WHEREFORE, Movant prays for the following relief:

- (A) An Order granting Movant relief from the automatic stay entered under 11 U.S.C. § 362 for all purposes allowed by applicable law, including but not limited to, authorizing Movant to exercise its state law remedies, specifically to continue the

Dispossessory against Debtor and all other occupants of the Property and remove all personal property and personal effects therefrom and to seek a monetary judgment for any post-petition amounts due under the Lease to the extent permitted by law and by this Court;

- (B) That the Lease be deemed rejected;
- (C) The Court award Movant reasonable attorney's fees and costs for bringing the instant motion;
- (D) The Court waive the 14-day stay of Bankruptcy Rule 4001(a)(3); and
- (E) For such other and further relief as the Court deems just and equitable.

Dated: April 27, 2022.

Respectfully Submitted,

/s/ Mechelle Montgomery-Bumpers
Mechelle Montgomery-Bumpers
Georgia Bar No. 228572

Counsel for Movant

**Goggans, Stutzman, Hudson,
Wilson & Mize, LLP**
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MARK AARON RICH, Debtor,	
S. GREGORY HAYS, Trustee, Respondents.	

NOTICE OF HEARING

PLEASE TAKE NOTICE that VSP Atlanta LLC, Movant herein, has filed a Motion for Relief from Automatic Stay, dated April 27, 2022, and related papers with the Court seeking an order modifying the automatic stay.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the motion in **Courtroom 1203, Richard B. Russell Federal Building and U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303, at 10:00 a.m. on May 12, 2022.** [“The calendar calls will be in the courtroom and on Judge Cavender’s Virtual Hearing Room. Please check the Judge’s website under the “Hearing Information” tab for more information.](#)

Your rights may be affected by the Court’s ruling on these pleadings. You should read the

pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you filed a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that the Clerk receives it at least two (2) business days before the hearing. The address of the Clerk's office is: **Clerk, United States Bankruptcy Court, Room 1203, 75 Ted Turner Drive, S.W., Atlanta, Georgia 30303.** You must also mail a copy of your response to the undersigned at the address stated below.

If a hearing on the Motion for Relief from Automatic Stay cannot be held within thirty (30) days, Movants waive the requirement for holding a preliminary hearing within thirty (30) days of filing the motion and agrees to a hearing on the earliest possible date. If the Court cannot render a final decision within sixty (60) days of the date of the request, Movants waive the requirement that a final decision be issued within that period.

Dated: April 27, 2022

Respectfully Submitted,

/s/ Mechelle Montgomery-Bumpers
Mechelle Montgomery-Bumpers
Georgia Bar No. 228572

Counsel for Movant

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S. GREGORY HAYS, Trustee, Respondents.	

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of Movant's **MOTION FOR RELIEF FROM AUTOMATIC STAY** and **AMENDED NOTICE OF HEARING** electronically or by depositing same in the United States First Mail in a properly addressed envelope to each with adequate postage thereon as follows:

MARK AARON RICH
1030 Millridge Lane
Marietta, GA 30067

Office of the United States Trustee
362 Richard Russell Building
75 Ted Turner Drive, SW
Atlanta, GA 30303

CRAIG ZANDER BLACK
The Craig Black Law Firm, LLC
5555 Glenridge Connector NE
Suite 200
Atlanta, GA 30342

S. GREGORY HAYS
Hays Financial Consulting, LLC
2964 Peachtree Road, Suite 555
Atlanta, GA 30305

Dated: April 27, 2022

Respectfully Submitted,

/s/ Mechelle Montgomery-Bumpers

Mechelle Montgomery-Bumpers

Georgia Bar No. 228572

Counsel for Movant

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DISTRIBUTION LIST

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